

1 **State of Arkansas**  
2 **78th General Assembly**  
3 **Regular Session, 1991**  
4 **By: Senators Dowd and Miles**

# A Bill

**SENATE BILL 444**

## **For An Act To Be Entitled**

8 "AN ACT TO AMEND TITLE 3, CHAPTER 5 OF THE ARKANSAS CODE  
9 OF 1987 TO AUTHORIZE THE ESTABLISHMENT OF MICROBREWERY-  
10 RESTAURANTS; TO PROVIDE FOR TAXATION OF MICROBREWERY-  
11 RESTAURANTS; AND FOR OTHER PURPOSES."

12  
13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

14  
15 SECTION 1. Title 3, Chapter 5 of the Arkansas Code of 1987 is hereby  
16 amended by adding a new subchapter to read as follows:

17 "3-5-1101. Legislative determinations and intent.

18 (a) The General Assembly reaffirms the policy of this state of strict  
19 enforcement of laws and regulations applicable to the manufacture or sale of  
20 beer including, but not limited to, those establishing the three-tier  
21 distribution system with prohibitions against ownership and employment  
22 interests between the three tiers (the 'three-tier system').

23 (b) The General Assembly determines:

24 (1) That the tourist and the convention industries contribute  
25 substantially to the revenues of business enterprises in this state and that  
26 income from the tourist trade, conventions, and allied industries is essential  
27 to the continued well-being and prosperity of this state;

28 (2) That there is extreme competition among states throughout the  
29 nation for the tourist and convention business; and

30 (3) That all reasonable steps should be taken to retain, foster,  
31 and encourage this business and to create favorable competitive conditions  
32 therefor in this state.

33 (c) In order to encourage tourist and conventions to come to Arkansas,  
34 it is essential that visitors to the state be provided accommodations,  
35 services and facilities of a nature to which they are accustomed and

1 competitive with those offered in other states and areas.

2 (d) It is the intent and purpose of this subchapter to authorize the  
3 legal operation of microbrewery-restaurants as herein provided, as a limited  
4 exception to the three-tier system.

5

6 3-5-1102. Definitions. As used in this subchapter, unless the context  
7 otherwise requires.

8 (1) 'Barrel' means thirty-one (31) gallons.

9 (2) 'Beer' means any fermented liquor made from malt or any substitute  
10 therefor and having an alcoholic content not in excess of five percent (5%) by  
11 weight.

12 (3) 'Beer law or regulation' means any law of this state (or any  
13 regulation promulgated and adopted with respect thereto) which is (1)  
14 applicable to a person applying for or holding a license to manufacture beer  
15 or (2) applicable to a person applying for or holding a license to sell beer  
16 in a restaurant for consumption on the licensed premises.

17 (4) 'Board' means the Alcoholic Beverage Control Board of this state,  
18 or its successor agency.

19 (5) 'Conflicting beer law or regulation' means any beer law or  
20 regulation which prohibits or conflicts with the otherwise legal licensing and  
21 operation of microbrewery-restaurants, as authorized in this subchapter, by  
22 requiring any brewer to sell only to a licensed wholesaler, or requiring any  
23 licensed retailer to sell only beer purchased from a licensed wholesaler, or  
24 prohibiting any brewer or retailer from having any ownership or employment  
25 interest in the business of the other or the premises of the other, or  
26 requiring that the excise and enforcement tax on beer manufactured by a brewer  
27 be paid by a licensed wholesaler, or any beer law or regulation of similar  
28 direct or indirect effect.

29 (6) 'Director' means the Director of the Alcoholic Beverage Control  
30 Division of this state, or its successor agency.

31 (7) 'Dry area' means any area in this state in which the manufacture  
32 or sale of beer is prohibited by a local option election heretofore or  
33 hereafter held pursuant to applicable laws of this state.

34 (8) 'Federal regulations' means regulations adopted by the United  
35 States Bureau of Alcohol, Tobacco and Firearms applicable to and consistent

1 with a microbrewery-restaurant operation as authorized in this subchapter,  
2 incorporated herein by this reference, including but not limited to 27 CFR  
3 Part 25, §25.25.

4 (9) 'Person' means any natural person, partnership, association, or  
5 corporation.

6 (10) 'Restaurant' means any public or private place which is kept,  
7 used, maintained, advertised and held out to the public or to a private or  
8 restricted membership as a place where complete meals are actually and  
9 regularly served, such place being provided with adequate and sanitary kitchen  
10 and dining equipment and a seating capacity of at least fifty (50) people and  
11 having employed a sufficient number and kind of employees to prepare, cook and  
12 serve suitable food for its guests or members, at least one (1) meal per day  
13 shall be served and the place shall be open a minimum of five (5) days per  
14 week, with the exception of holidays, vacations and periods of redecorating.

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16 3-5-1103. Effect on other laws.

17 Every provision of this subchapter shall be subject to all beer laws and  
18 regulations except that conflicting beer laws and regulations shall be  
19 inapplicable to any provision of this subchapter to the extent that they  
20 conflict therewith.

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22 3-5-1104. Microbrewery-restaurant license.

23 (a) The director may issue a microbrewery-restaurant license which  
24 shall authorize the licensee to do the following on the licensed premises:

25 (1) to operate a microbrewery which shall manufacture one (1) or  
26 more varieties of beer in an aggregate quantity not to exceed fifteen hundred  
27 (1500) barrels per year, and to store any such beer (and any other beer which  
28 the microbrewery-restaurant licensee may purchase from wholesalers licensed by  
29 this state) on the microbrewery-restaurant licensed premises; and

30 (2) to operate a restaurant which shall be the only sales outlet  
31 for beer manufactured by the microbrewery and which shall sell such beer, and  
32 any other beer which the microbrewery-restaurant licensee may purchase from  
33 wholesalers licensed by this state, only for consumption on the licensed  
34 premises.

35 (b) The director shall not issue a microbrewery-restaurant license if

1 the microbrewery-restaurant premises is in a dry area.

2

3 3-5-1105. Fees and taxes.

4 A microbrewery-restaurant licensee shall:

5 (1) pay all state and city or county license or permit fees, taxes and  
6 bonds or deposits applicable to a person licensed by this state to manufacture  
7 beer and to a person licensed by this state to sell beer in a restaurant for  
8 consumption on the licensed premises; and

9 (2) measure beer manufactured by the microbrewery, and otherwise comply  
10 with applicable regulations respecting excise and enforcement tax  
11 determination of such beer, and pay any applicable bond or deposit and *the*  
12 *amount of the state excise tax and enforcement tax to this state, as required*  
13 *by Arkansas Code Annotated §3-7-104 and §3-7-111.*

14 3-5-1106. Application.

15 No microbrewery-restaurant license shall be issued unless the applicant  
16 shall file with the director a verified application, in such form and with  
17 such content as the director shall require, accompanied by payment of the  
18 applicable fee.

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20 3-5-1107. Operation without license prohibited.

21 It shall be unlawful and constitute a misdemeanor for any person not  
22 holding a valid microbrewery-restaurant license to operate as a microbrewery-  
23 restaurant as herein provided.

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25 3-5-1108. Implementing regulations.

26 The director and the board, and the Director of the Department of  
27 Finance and Administration, and any other applicable agency of this state,  
28 shall promulgate and adopt such regulations as they deem necessary for the  
29 implementation of this subchapter which regulations may consist in whole or in  
30 part of the federal regulations."

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32 SECTION 2. All provisions of this act of a general and permanent nature  
33 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
34 Revision Commission shall incorporate the same in the Code.

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